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**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re:

USA COMMERCIAL MORTGAGE
COMPANY,

USA CAPITAL REALTY ADVISORS,
LLC,

USA CAPITAL DIVERSIFIED TRUST
DEED FUND, LLC,

USA CAPITAL FIRST TRUST DEED
FUND, LLC,

USA SECURITIES, LLC,

Debtors.

Affects:

- ☐ All Debtors
- ☒ USA Commercial Mortgage Company
- ☐ USA Capital Realty Advisors, LLC
- ☐ USA Capital Diversified Trust Deed Fund, LLC
- ☐ USA Capital First Trust Deed Fund, LLC
- ☐ USA Securities, LLC

Case No. BK-S-06-10725-LBR
Case No. BK-S-06-10726-LBR
Case No. BK-S-06-10727-LBR
Case No. BK-S-06-10728-LBR
Case No. BK-S-06-10729-LBR

CHAPTER 11

Jointly Administered Under Case No.
BK-S-06-10725 LBR

**AMENDED MOTION FOR ORDER
REQUIRING FIDELITY NATIONAL
TITLE COMPANY TO PRODUCE
DOCUMENTS AND ONE OR MORE
REPRESENTATIVES FOR
EXAMINATION PURSUANT TO
FEDERAL RULE OF
BANKRUPTCY PROCEDURE 2004**

[No hearing required]

Pursuant to Federal Rule of Bankruptcy Procedure 2004, the USACM Liquidating Trust (the "Trust" or "Movant") hereby moves this Court for an order requiring Fidelity National Title Company ("Fidelity") to produce documents and one or more representatives, as set forth in the subpoena to be issued under Federal Rule of Bankruptcy

1 Procedure 9016, to appear for examination at the office of Development Specialists, Inc.,
2 333 S. Grand Avenue, Suite 4070, Los Angeles, California 90071-1544, on a business day
3 no earlier than ten (10) business days after the filing of this Motion and no later than
4 November 1, 2007, or at such other mutually agreeable location, date, and time, and
5 continuing from day to day thereafter until completed.
6

7 This Motion is further explained in the following Memorandum.

8
9 **Memorandum**

10 The Trust seeks information concerning various transactions between Fidelity
11 National and USACM, the other debtors in the above-captioned cases (together with
12 USACM, the “Debtors”), and the Debtors’ affiliates, subsidiaries, parents, or otherwise
13 related entities. Fidelity National is one of several title companies that participated in the
14 documents of loan transactions between the Debtors and their borrowers. The Trust seeks
15 this information from the title companies to assist in the collection of the assets and the
16 investigation of the liabilities of the Debtors.
17

18 The Trust previously issued a subpoena to Fidelity National seeking information
19 regarding transactions in which Debtors and/or its affiliates were involved. Fidelity
20 National has stated that it is unable to provide documents because it cannot locate files by
21 entity names. Therefore, this renewed request for a Rule 2004 examination will includes
22 known escrow file numbers and seeks more specific information regarding transactions in
23 which Fidelity National was known to be an escrow agent and also seeks to determine
24 whether Fidelity National was involved in other transactions.
25
26

1
2 In particular, the Trust will seek the following categories of documents from
3 Fidelity National and other title companies:
4

- 5 • Escrow files from specific transactions in which Debtors or their affiliates participated;
- 6 • Escrow files from other transactions in which Debtors or their affiliates participated;
- 7 • Purchase contracts, amendments, and assignments from these transactions;
- 8 • Deeds of trust from these transactions;
- 9 • Documents identifying other escrows relating to the properties at issue;
- 10 • Title policies issued in connection with the closing of the transactions in which Debtors participated;
- 11 • Correspondence and emails related to transactions in which Debtors or their affiliates participated.

12 The requested discovery from Fidelity is within the scope of examination permitted
13 under Bankruptcy Rule 2004, which includes:
14

15 [t]he acts, conduct, or property or . . . the liabilities and financial condition
16 of the debtor, or . . . any matter which may affect the administration of the
17 debtor's estate, or to the debtor's right to a discharge. In a . . .
18 reorganization case under chapter 11 of the Code, . . . the examination may
19 also relate to the operation of any business and the desirability of its
20 continuance, the source of any money or property acquired or to be acquired
21 by the debtor for purposes of consummating a plan and the consideration
22 given or offered therefore,¹ and any other matter relevant to the case or to the
23 formulation of a plan.

24 Conclusion

25 Accordingly, the Movant requests that this Court enter the form of order submitted
26 with this Motion.

Dated: September 20, 2007.

¹ FED.R. BANKR. P. 2004(b).

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